

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:

42338

Date filed:

11-21-2017

State Admin Rule Filing Id:

Time filed:

		Agency No.	Rule No.	Section No.
Utah Admin. Code Ref (R no.):	R	156	- 72	-
Changed to Admin. Code Ref. (R no.):	R		-	-

1. Agency: Commerce/Division of Occupational and Professional Licensing

Room no.:

Building: Heber M. Wells Building

Street address 1: 160 East 300 South

Street address 2:

City, state, zip: Salt Lake City UT 84111-2316

Mailing address 1: PO Box 146741

Mailing address 2:

City, state, zip: Salt Lake City UT 84114-6741

Contact person(s):

Name:	Phone:	Fax:	E-mail:
Larry Marx	801-530-6254	801-530-6511	lmarx@utah.gov

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2. Title of rule or section (catchline):
Acupuncture Licensing Act Rule
3. Type of notice:
New ____; Amendment XXXX; Repeal ____; Repeal and Reenact ____
4. Purpose of the rule or reason for the change:
The Acupuncture Licensing Board recommends these proposed amendments to clarify certain terms and ensure that the definitions in the Acupuncture Licensing Act Rule encompass existing acupuncture methods and techniques already practiced in the profession.
5. This change is a response to comments from the Administrative Rules Review Committee.
No XXX; Yes ____
6. Summary of the rule or change:

Subsection R156-72-102(1): These proposed amendments make minor formatting changes for clarification. Subsection R156-72-102(4): This new subsection clarifies the terms "herbs" and "homeopathics" used in Subsection 58-72-102(4)(b)(ii), by giving the following non-exclusive list of herbs and homeopathic substances that may be recommended, administered, or provided: vitamins, minerals, amino acids, proteins, and enzymes. Subsection R156-72-102(5): This subsection is amended to more clearly define "insertion of acupuncture needles" in the practice of acupuncture, by including "myofascial" trigger point therapy, "intramuscular therapy", and "proprioceptive stimulation". Subsection R156-72-102(6): This subsection clarifies that the National Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM) was formerly known as the National Commission for the Certification of Acupuncturists. Section R156-72-302a: This proposed amendment deletes the reference to NCCAOM's former name as it is now included in the definition under R156-72-102(6).

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No ____; Yes XXXX

These proposed amendments only make minor formatting changes for clarification, and ensure that the definitions in the rule encompass existing acupuncture methods and techniques already practiced in the profession. Accordingly, the proposed amendments will not cause any party to experience a cost or benefit, and will not change the price or quantity of any exchanges between any parties. As a result, this rule is not expected to impact the state, beyond a minimal cost to the Division of approximately \$75 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

B) Local government:

Affected: No XXXX; Yes ____

These proposed amendments only make minor formatting changes for clarification, and ensure that the definitions in the rule encompass existing acupuncture methods and techniques already practiced in the profession. Accordingly, the proposed amendments will not cause any party to experience a cost or benefit, and will not change the price or quantity of any exchanges between any parties. As a result, this rule is not expected to impact local government.

C) Small businesses ("small business" means a business employing fewer than 50 persons)

Affected: No XXX; Yes ____

These proposed amendments only make minor formatting changes for clarification, and ensure that the definitions in the rule encompass existing acupuncture methods and techniques already practiced in the profession. Accordingly, the proposed amendments will not cause any party to experience a cost or benefit, and will not change the price or quantity of any exchanges between any parties. As a result, this rule is not expected to impact small business.

D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

Affected: No XXX; Yes ____

These proposed amendments only make minor formatting changes for clarification, and ensure that the definitions in the rule encompass existing acupuncture methods and techniques already practiced in the profession. Accordingly, the proposed amendments will not cause any party to experience a cost or benefit, and will not change the price or quantity of any exchanges between any parties. As a result, this rule is not expected to impact other persons.

8. Compliance costs for affected persons:

These proposed amendments only make minor formatting changes and clarifications to the existing rule and do not impose any additional compliance cost on any affected persons.

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

The proposed amendments to the rules only make minor formatting changes for clarification, and ensure that the definitions in the rule encompass existing acupuncture methods and techniques already practiced in the profession. Accordingly, these amendments will not cause any party to experience any cost or benefit, and will not change the price or quantity of any exchanges between any parties. These rules amendments are not expected to impact small or non-small businesses.

B) Name and title of department head commenting on the fiscal impacts:

Francine A. Giani, Executive Director

- 10 This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV):

Section 58-72-101

Subsection 58-1-106(1)(a)

Subsection 58-1-202(1)(a)

- 11 This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; if none, leave blank):

	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)		
Publisher		
Date Issued		
Issue, or version		
ISBN Number (optional)		
ISSN Number (optional)		
Cost of Incorporated Reference		
Action: Adds, updates, or removes		

(If this rule incorporates more than two items by reference, please attach additional pages)

- 12 The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):

01/16/2018

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):

At (hh:mm AM/PM):

At (place):

- 13 This rule change may become effective on (mm/dd/yyyy):

01/23/2018

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

- 14 Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid"); may not include the name of the agency:

acupuncture

licensing

- 15 Attach an RTF document containing the text of this rule change (filename):

R156-72.pro

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

AGENCY AUTHORIZATION

Agency head or
designee, and title:



Date

(mm/dd/yyyy)

: 11/20/2017

eRules v. 2: ProposedRule.doc 09/03/2009 (<http://www.rules.utah.gov/agencyresources/forms/ProposedRule.doc>)

R156. Commerce, Occupational and Professional Licensing.

R156-72. Acupuncture Licensing Act Rule.

R156-72-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 72, as used in this rule:

(1)(a) "Administration", as used in Subsection 58-72-102(4)(b)(ii), means the direct application of an herb, homeopathic, or supplement to the body of a patient by:

- (i) ingestion[7];
 - (ii) topical application;[7]
 - (iii) inhalation[7]; or
 - (iv) acupoint injection therapy (AIT) [~~to the body of a patient~~].
- (b) Administration does not include:
- (i) venous injections[7];
 - (ii) immunizations[7];
 - (iii) legend drugs; or
 - (iv) [~~and~~] controlled substances.

(2) "Controlled substance" means a drug or substance [~~as~~] defined in Subsection 58-37-2(1)(f).

(3) "Legend drug" means a prescription drug as defined in Subsections 58-17b-102(32) and (64).

(4) "Herbs" and "homeopathics", as used in Subsection 58-72-102(4)(b)(ii), may include:

- (a) vitamins;
- (b) minerals;
- (c) amino acids;
- (d) proteins; and
- (e) enzymes.

([4]5) "Insertion of acupuncture needles" means a procedure of acupuncture and oriental medicine which includes [~~but is not limited to~~] myofascial trigger point therapy, intramuscular therapy, proprioceptive stimulation, Ahshi points, and dry needling techniques.

([5]6) "NCCAOM" means the National Commission for the Certification of Acupuncture and Oriental Medicine (formerly known as the National Commission for the Certification of Acupuncturists (NCCA)).

([6]7) "Modern research" means practicing according to acupuncture and oriental medicine training as recognized through NCCAOM.

([7]8) "Provision", as used in Subsection 58-72-102(4)(b)(ii), includes procurement of the substances listed in Subsection 58-72-102(4)(b)(ii).

R156-72-302a. Qualifications for Licensure - Examination Requirements.

In accordance with Subsection 58-72-302(5), the examination requirement for licensure is a passing score as determined by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) on all examinations for certification by NCCAOM [~~formerly National Commission for the Certification of Acupuncturists (NCCA),~~] in acupuncture or oriental

medicine.

KEY: acupuncture, licensing

Date of Enactment or Last Substantive Amendment: [~~July 9, 2015~~]2018

Notice of Continuation: September 8, 2016

Authorizing, and Implemented or Interpreted Law: 58-72-101; 58-1-106(1)(a); 58-1-202(1)(a)

Appendix: Regulatory Impact Analysis for Small and Non-Small Businesses

	FY 2018	FY 2019	FY 2020
Fiscal Costs			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

The total fiscal costs is the sum of all the fiscal costs.

The total fiscal benefits is the sum of all the fiscal benefits.

The net fiscal benefits is total fiscal benefits minus total fiscal costs.

[Enter information on small and non-small businesses below the table]

Small businesses: The proposed rule amendments are not expected to impact small businesses.

Non-small businesses: The proposed rule amendments are not expected to impact non-small businesses.